

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JAMES L. SAYLOR,	)	
	)	
Petitioner,	)	No. C 05-0821 CRB (PR)
	)	
vs.	)	ORDER DENYING
	)	CERTIFICATE OF
ANTHONY KANE, Warden,	)	APPEALABILITY
	)	
Respondent.	)	(Doc # 14)
_____	)	

Petitioner has filed a notice of appeal and request for a certificate of appealability under 28 U.S.C. § 2253(c) and Federal Rule of Appellate Procedure 22(b) following this court's dismissal of his federal habeas petition as untimely. .

Petitioner's request for a certificate of appealability (doc # 14) is DENIED because petitioner has not made "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Petitioner has not demonstrated that "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." Slack v. McDaniel, 529 U.S. 473, 484 (2000).

The clerk shall forward to the court of appeals the case file with this order. See United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997).

SO ORDERED.

DATED: Feb. 7, 2006

  
\_\_\_\_\_  
CHARLES R. BREYER  
United States District Judge